IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 11925 of 2005

Between:

Rachamsetti Siva Naga Jyothi W/o. Durga Prasad
Kollipara Mandal, Guntur District.

..... PETITIONER

AND

1 The Joint Collector and Additional District, Magistrate, Guntur, Guntur District.
2 The Revenue Divisional Officer, Tenali, Guntur District.
3 The Mandal Revenue Officer, Kollipara, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or orders more particularly one in the nature of writ of mandamus directing the respondents to continue the petitioner as Fair Price Shop Dealer in Vallabhapuram Village, Kollipara Mandal, Guntur District, by holding and declaring that the orders of the 1st and 2nd Respondents in A.C.D. Dis.No. 15/2005-S7, dt. 16-4-2005 and Proc.Rc.No. 299/2005-K, dt. 18-5-2005 respectively as illegal and arbitrary and consequently set aside the same, by holding and declaring that the petitioner is the resident of House No. 9-98 at Vallabhapuram Village Kollipara (M), Guntur District. and she is entitled to continue as Fair Price Shop Dealer at Vallabhapuram (V), Kollipara (M), Guntur District and pass such other order or orders.

Counsel for the Petitioner : MR. P.V.SUBRAHMANYA SARMA

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.11925 OF 2005

ORDER :

The writ petitioner was appointed as fair price shop dealer of Vallabhapuram Village, Kollipara Mandal, Guntur District on 19-7-2002. By order dated 28-2-2005 passed by the 2nd respondent – Revenue Divisional Officer, Tenali, the authorization of the petitioner was suspended pending enquiry into the allegation that she was not residing in the village and that the Fair Price Shop was being run by her husband's brother. Aggrieved by the said order, the petitioner preferred an appeal before the 1st respondent – Joint Collector and Additional District Magistrate, Guntur. By order dated 31-3-2005 the first respondent while calling for the remarks of the Revenue Divisional Officer, Tenali directed the writ petitioner to appear in person or through advocate for hearing on 21-4-2005. However, it appears that on 16-4-2005 itself the first respondent disposed of the said appeal with a direction to the Revenue Divisional Officer, Tenali to finalise the case by 30-04-2005. It is not in dispute that in the meanwhile the petitioner was issued a show-cause notice and in

response to the same, the petitioner submitted a detailed explanation on 4-4-2005. The Revenue Divisional Officer, having considered the explanation offered by the petitioner, recorded a finding that though the petitioner was residing at Vallabhapuram Village, subsequently she has shifted to Duggirala along with her husband. Thus, it was concluded that she is residing at Duggirala, but not at Vallapbhapuram village and accordingly by order dated 18-5-2005 the authorization of the petitioner was cancelled. Aggrieved by the same, the petitioner filed this writ petition seeking a declaration that the orders of both the first respondent dated 16-4-2005 as well as the order of the second respondent dated 18-5-2005 are arbitrary and illegal.

I have heard the learned Counsel for the petitioner and perused the material on record.

The learned Counsel for the petitioner submits that the first respondent has grievously erred in disposing of the appeal without hearing the petitioner. The learned Counsel for the petitioner points out that having posted the appeal for hearing on 21-4-2005, the first respondent has finally disposed of the appeal on 16-4-2005 itself without hearing the writ petitioner. The learned Counsel for the petitioner also submits that the order passed by the 2nd respondent - Revenue Divisional Officer is without application of mind to the material on record. The learned Counsel vehemently contends that the said order was passed mechanically without taking into consideration the detailed explanation offered by the petitioner denying the allegation that she is not residing in Vallabhapuram village.

It is to be noted that the appeal before the first respondent was against the order dated 28-2-2005 under which the petitioner was suspended pending enquiry. However, the Revenue Divisional Officer has already completed the enquiry and a final order was passed on 18-5-2005 under which the authorization of the petitioner was cancelled. As such, even assuming that the appeal was disposed of on 16-4-2005 by the first respondent without hearing the petitioner, and thus the order was arbitrary and in violation of the principles of natural justice, it is immaterial and deserves no consideration at this stage since the order of suspension has already

worked itself out. So far as the order passed by the second respondent dated 18-5-2005 is concerned, admittedly against the said order an efficacious remedy of appeal is available under the provisions of A.P. Public Distribution System (Control) Order, 2001. Without exhausting the said alternative remedy of appeal, the petitioner cannot maintain this writ petition. Hence, I am not inclined to go into the merits of the case and it is not necessary to consider the various contentions raised by the learned Counsel for the petitioner.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of granting leave and liberty to the petitioner to work out the remedy of appeal against the order dated 18-5-2005. It is made clear that if any such appeal is preferred, the appellate authority shall consider all the grounds raised in the Appeal in the light of the material that may be placed before him and appropriate orders shall be passed in accordance with law.

The Writ Petition is accordingly disposed of. No costs.

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20th June, 2005.

Note:- CC in one week.

(B/O)

gbs

To

1 The Joint Collector and Additional District, Magistrate, Guntur, Guntur District.
2 The Revenue Divisional Officer, Tenali, Guntur District.
3 The Mandal Revenue Officer, Kollipara, Guntur District.

4. Two CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).

5. Two CD copies.